

REMARKS

The office action of September 24, 2009, has been carefully considered.

It is noted that claims 1, 3-5 and 8-10 are rejected under 35 U.S.C. 103(a) over the patent to Shutt et al. in view of either the patent to Roth et al. '970 or the patent to Roth '560.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) over the patent to Shutt et al. '832 in view of either the patent to Shutt et al. '175 or the patent to Antreich.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) over Shutt et al. in view of Roth et al. or Roth, and further in view of Antreich.

Claim 12 is rejected under 35 U.S.C. 103(a) over Shutt et al. in view of Roth et al. or Roth, and further in view of the patent Weissrich et al.

Finally, it is noted that claim 11 would be allowable if

rewritten in independent form.

In view of the Examiner's rejections of the claims, applicant has amended claims 1 and 9.

It is respectfully submitted that the claims presently on file differ essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references.

Turning now to the references, applicant has discussed the references in the last filed amendment and submits that those arguments remain applicable and incorporates them herein by reference. The following additional comments are provided.

As amended, independent claims 1 and 9 recite a construction in which the rear-most roof part of the front roof section, during opening, does not protrude above a height of the rear-most roof part in a closed position. This allows the roof to be opened and closed even during driving of the automobile without resulting in a large surface area being exposed to the wind. None of the references cited by the Examiner, taken alone or in the various combinations presented by the Examiner, teach a convertible as recited in the independent claims presently on

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file and as discussed above. In the references the rear-most part of the front section of the roof is, during opening, raised above its closed position so as to expose a large surface area to the wind if the automobile is moving. There is no suggestion of a construction as is now being claimed.

In view of these considerations it is respectfully submitted that the rejections of claims 1, 3-10 and 12 under 35 U.S.C. 103(a) are overcome and should be withdrawn.

Reconsideration and allowance of the present application are respectfully requested.

Any additional fees or charges required at this time in connection with this application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

By 

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450, on January 25, 2010.

By:

  
Klaus P. Stoffel

Date: January 25, 2010